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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

RAY A. MAXWELL,

Petitioner,

v.

UNITED STATES OF AMERICA,

Government.

CR 04-00732-RSWL-1

**ORDER re:  
Petitioner's Motion to  
Alter or Amend a Judgment  
Construed [1254]**

Currently before the Court is Petitioner Ray A. Maxwell's ("Petitioner") Motion to Alter or Amend a Judgment pursuant to Federal Rule of Civil Procedure 59(e) ("Petitioner's Motion") [1254]. Petitioner seeks to alter the Court's December 22, 2022 Order dismissing Petitioner's Motion to Resentence [1253].

Having reviewed all papers submitted pertaining to the Motion, and finding that further briefing is not necessary on this matter, the Court **NOW FINDS AND RULES**

1 **AS FOLLOWS:** the Court **DENIES** Petitioner's Motion to  
2 Alter or Amend a Judgment.

3 **I. BACKGROUND**

4 **A. Factual Background**

5 On March 27, 2007, Petitioner pled guilty to one  
6 count of conspiracy to commit bank robbery in violation  
7 of 18 U.S.C. § 371, one count of attempted armed bank  
8 robbery and two counts of armed bank robbery in  
9 violation of 18 U.S.C. § 2113, and one count of  
10 discharging a firearm during a crime of violence in  
11 violation of 18 U.S.C. § 924(c)(1)(A)(iii). See Plea  
12 Agreement, ECF No. 544; Minutes of Mot. Hr'g and Change  
13 of Plea Hr'g 2, ECF No. 556. On May 5, 2008, this Court  
14 sentenced Petitioner to a term of 360 months in prison  
15 followed by five years of supervised release. J. and  
16 Probation/Commitment Order 1, ECF No. 884. Plaintiff  
17 appealed from the judgment of conviction and sentence,  
18 and the Ninth Circuit affirmed. See United States v.  
19 Maxwell, 360 F. App'x 896, 898 (9th Cir. 2009).

20 In 2010, Petitioner filed a Motion Under 28 U.S.C.  
21 § 2255 to Vacate, Set Aside, or Correct Sentence by a  
22 Person in Federal Custody [1014], which the Court denied  
23 [1046]. The Court also denied [1051] Petitioner's Rule  
24 59(e) Motion for Reconsideration to Alter or Amend  
25 Judgment [1049]. In 2014, Petitioner filed another  
26 Application Under 28 U.S.C. § 2255 to Vacate, Set Aside,  
27 or Correct Sentence by a Person in Federal Custody  
28 [1064], which the Court dismissed [1070]. The Court

1 subsequently denied [1077] Petitioner's Petition for  
2 Reconsideration of its Order regarding his Application  
3 to Vacate, Set Aside, or Correct Sentence [1072]. In  
4 2016, Petitioner filed his third § 2255 motion [1168],  
5 which the Court also denied [1178]. On June 27, 2019,  
6 Petitioner filed a Motion to Reopen Case [1216]. The  
7 Court denied [1217] that motion because it was, in  
8 substance, a successive habeas corpus petition filed  
9 without pre-certification by the Ninth Circuit. See  
10 Order re: Pet'r's Mot. to Reopen Case and to Appoint  
11 Counsel 2:11-5:2, ECF No. 1217. In 2020, Petitioner  
12 filed a Motion for Compassionate Release/Reduction of  
13 Sentence [1225], which the Court also denied [1240].

14 Petitioner filed a Motion to Grant Resentencing  
15 [1243] on September 21, 2022. The Government opposed by  
16 filing its Motion to Dismiss the Petitioner's Motion to  
17 Grant Resentencing [1248]. The Court granted the  
18 Government's Motion to Dismiss and dismissed  
19 Petitioner's Motion to Grant Resentencing [1253] on  
20 December 22, 2022.<sup>1</sup>

21 Petitioner filed the instant Motion [1254] on  
22 January 26, 2023. Petitioner again argues that he is  
23 entitled to be resentenced without consideration of his  
24 Chapter Four Career Offender designation because one of  
25 his prior convictions has been "invalidated" or set

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27 <sup>1</sup> Since the Ninth Circuit affirmed his conviction in 2009,  
28 Petitioner has filed eight separate motions for post-conviction  
relief, including the instant Motion.

1 aside. See generally Pet'r's Mot. for Recons., ECF No.  
2 1254.

## 3 II. DISCUSSION

### 4 A. Legal Standard

5 "When a party seeks reconsideration of an  
6 interlocutory order rather than a final judgment, . . .  
7 the motion is governed by Local Rule 7-18." In re  
8 Benham, No. 13-cv-00205-VBF, 2013 WL 3872185, at \*2  
9 (C.D. Cal. May 29, 2013) (citing Lozano v. AT&T  
10 Wireless, No. 02-cv-00090-WJR, 2003 WL 25548566, at \*1  
11 (C.D. Cal. Aug. 18, 2003)) ("While Federal Rules of  
12 Civil Procedure 59 and 60 permit reconsideration of  
13 final judgments, California Central District Local Rule  
14 7-18 allows motion for reconsideration 'of the decision  
15 on any motion.'"); see Union Pacific R.R. Co. v. Coast  
16 Packing Co., 236 F. Supp. 2d 1130, 1137 (C.D. Cal.  
17 2002)); C.D. Cal. L.R. 7-18.

18 Rule 7-18 states that a motion for reconsideration  
19 "of the decision on any motion" may be made only on the  
20 following grounds:

21 (a) a material difference in fact or law from  
22 that presented to the Court before such  
23 decision that in the exercise of reasonable  
24 diligence could not have been known to the  
25 party moving for reconsideration at the time of  
26 such decision, or

1 (b) the emergence of new material facts or a  
2 change of law occurring after the time of such  
3 decision, or

4 (c) a manifest showing of a failure to consider  
5 material facts presented to the Court before  
6 such decision.).

7 C.D. Cal. L.R. 7-18.

8 "The moving party must demonstrate one of the  
9 above conditions in order to have [the Court] reconsider  
10 the motion." Union Pac. R.R. Co., 236 F. Supp. 2d at  
11 1137-38. "[A] mere attempt by [the moving party] to  
12 reargue its position by directing this Court to  
13 additional case law and . . . argument[s] which [it]  
14 clearly could have made earlier, but did not . . . is  
15 not the purpose of motions for reconsideration under'  
16 Local Rule 7-18." Id. (quoting Yang Ming Marine Transp.  
17 Corp. v. Oceanbridge Shipping Int'l, Inc., 48 F. Supp.  
18 2d 1049, 1057 (C.D. Cal. 1999)).

19 **B. Discussion**

20 "Reconsideration is appropriate if the district  
21 court (1) is presented with newly discovered evidence,  
22 (2) committed clear error or the initial decision was  
23 manifestly unjust, or (3) if there is an intervening  
24 change in controlling law." Sch. Dist. No. 1J,  
25 Multnomah Cnty., Or. v. ACandS, Inc., 5 F.3d 1255, 1263  
26 (9th Cir. 1993). Local Rule 7-18 instructs that "newly  
27 discovered evidence" is either facts occurring after the  
28 time of decision or those "that in the exercise of

1 reasonable diligence could not have been known" to the  
2 movant at the time of the decision. It further permits  
3 reconsideration for material differences in law or "a  
4 manifest showing of a failure to consider material facts  
5 presented to the Court before such decision." C.D. Cal.  
6 L.R. 7-18.

7 Here, Petitioner offers no newly discovered  
8 evidence or intervening change in controlling law.  
9 Rather, Petitioner regurgitates the exact same arguments  
10 as in his underlying Motion to Grant Resentencing  
11 [1243]. See generally Pet'r's Mot. for Recons.  
12 Moreover, Petitioner has not shown that the Court  
13 manifestly failed to consider material facts Petitioner  
14 previously presented. Instead, Petitioner contends the  
15 Court erred in reaching its legal conclusions. See  
16 generally id. Plaintiff does not demonstrate any ground  
17 for reconsideration, and he fails to show this is "one  
18 of the rare and highly unusual circumstances under which  
19 a motion for reconsideration should be granted." See  
20 Kopelev v. Boeing Co., No. LACV20-05805-VAP-KSx, 2021  
21 U.S. Dist. LEXIS 167261, at \*5 (C.D. Cal. July 29,  
22 2021). Thus, reconsideration is not warranted and  
23 Petitioner's Motion to Alter or Amend a Judgment  
24 pursuant to Federal Rule of Civil Procedure 59(e) is  
25 **DENIED.**

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**III. CONCLUSION**

Based on the foregoing, the Court **DENIES**  
Petitioner's Motion to Alter or Amend a Judgment.

**IT IS SO ORDERED.**

DATED: March 13, 2023

/s/Ronald S.W. Lew

**HONORABLE RONALD S.W. LEW**  
Senior U.S. District Judge